REVIEWS.

A SELECTION OF CASES AND STATUTES ON THE PRINCIPLES OF CODE PLEADING. By Charles M. Hepburn. Cincinnati: W. H. Anderson & Co. 1899. pp. 160.

These pages form the first installment of the latest addition to the constantly increasing number of case-books intended for class instruction. The publishers announce that it is the result of the advantages derived by Mr. Hepburn, as a lecturer in the Law Department of the University of Cincinnati, by a change from the older method of instruction to the study of cases and statutes at first hand. The first part states briefly the origin and nature of code pleading, and then treats by statutes and decisions, the doctrine of the reduction of all civil actions to one form. Other parts to follow will deal with parties to actions, joinder, defences, etc. Mr. Hepburn's ability to treat the subject is assured by his clear statements of its principles in his work on the "Development of Code Pleading." The authorities are well chosen and arranged. The book promises to become somewhat elaborate and bulky, considering the small amount of time generally allotted to the study of this subject. It will form a very useful volume in schools, where it is felt that sufficient knowledge of pleading is obtained by study of the present, often varying codes, without familiarizing the student with the fundamental principles of the common-law system, affording him the accompanying advantages in analysis of facts and applications of principles. J. I. W.

SOME RECENT CRITICISM OF GELPEKE VERSUS DUBUQUE. By Thomas Raeburn White. Philadelphia. 1899. pp. viii, 96.

Mr. White is right in thinking that few cases have given rise to more diversity of opinion than *Gelpeke* v. *Dubuque*. The law of the case is established beyond question; its justification still has a theoretical interest sufficient to excuse an addition to the literature on the subject. Mr. White has made such an addition, a real addition because of the novelty of the writer's point of view: his treatment is plausible and ingenious, and no less interesting because of its unsoundness.

The doctrine of the case is, briefly, that where a contract is entered into, which is valid under the law of the state of its making as then laid down by the courts of the state, it will be enforced by a federal court having jurisdiction of the parties, even if the state courts, having overruled their previous decisions, would hold the contract unconstitutional. In discussing this doctrine, Mr. White first demolishes various theories. The theory of Professor Thayer, developed in 4 HARVARD LAW REVIEW, 311, — justifying the rule as a rule of practice in federal courts, to protect suitors from local prejudice, — he handles roughly. In such a theory he finds no excuse for the federal courts in "foisting a law of their own construction upon a sovereign state." It may be remarked that this is an unduly strong statement of the effect of the case. The courts of the United States do not foist a law of their own construction; they adopt a construction of the state courts, though it is no longer the prevailing construction. To prevent injustice, they are not acting in a